

REMARKS

INTRODUCTION

In accordance with the foregoing, no claims have been canceled or added. Claims 23 and 30 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-32 are pending. Claims 6-9 and 20-22 have been withdrawn from consideration in response to a restriction requirement. Claims 1-5, 10-19, and 23-32 are under consideration. Reconsideration is respectfully requested.

OBJECTION TO THE CLAIMS

At page 3 of the Office Action, claim 30 was objected to. Claim 30 has been amended as suggested by the Examiner. Accordingly, the outstanding objection should be resolved. Reconsideration and withdrawal of the outstanding objection are respectfully requested.

REJECTION UNDER 35 U.S.C. §112

At page 3 of the Office Action, claim 23 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 23 has been amended in the interest of expediting prosecution of the application. Claim 23 now recites, *inter alia*,

[a] computer-readable storage comprising instructions to control a computer according to a process, the process comprising...

Therefore, withdrawal of the §112 rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. §102

At page 4 of the Office Action, claims 1, 10-19, 23, 25, 27, and 29-32 were rejected under 35 U.S.C. §102(a) and (e) in view of U.S. Patent No. 6,223,165 issued to Lauffer. At least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

Claim 1 recites, *inter alia*:

a server, during a communication session, receiving a question from one of the customers, sending the question to experts

determined by matching keywords in the question with the keywords in the database, and establishing a connection between the customer and an expert selected by the customer from experts wanting to answer the question

Claims 17 and 23 recite, inter alia:

sending the question to a plurality of registered experts during the communication session, the experts receiving the question determined by matching keywords in the question with keywords provided by the experts during registration; and

establishing a connection during the communication session between the customer and an expert selected by the customer from experts wanting to answer the question.

Claim 25 recites, inter alia:

selecting an expert based on a question submitted by a customer

Lauffer relates to matching consumers questions with experts, displaying available experts, providing for expert compensation, and providing for the connection between a consumer and an expert. As opposed to using a customer's question, Lauffer uses keywords to match a consumer with experts. After an expert is chosen, the consumer submits a question. For example, claim 1 of Lauffer recites "displaying... experts... prior to the consumer submitting a question; [and] in response to the consumer selecting a[n]... expert from the list, automatically establishing a... connection... prior to the consumer submitting the question to the expert."

In contrast, claim 1 of the application recites, inter alia, "receiving a question from one of the customers, sending the question to experts determined by matching keywords in the question with the keywords in the database..." Accordingly, the Applicants respectfully submit that Lauffer cannot be properly relied upon for teaching or suggesting the server as recited in claim 1. Further, the Applicants respectfully submit that Lauffer cannot be properly relied upon for teaching or suggesting the sending and establishing operation as recited in claims 17 and 23, or selecting operation as recited in claim 25.

The Applicants respectfully submit that since Lauffer fails to teach or suggest all of the features of claims 1, 17, 23 and 25, these claims are allowable over Lauffer. Thus, withdrawal of the 102 rejection is respectfully requested.

Regarding the rejection of claims 10-16, 18, 19, 27, and 29-32, these claims depend on one of independent claims 1, 17, and 25, and are therefore believed to be allowable for at least the reasons noted above.

REJECTION UNDER 35 U.S.C. §103

At page 10 of the Office Action, claims 2-5, 24, 26, and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lauffer. At least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

Regarding claims 2-5, 26 and 28, the Office Action states that these claims are rejected "as applied to claims 1, 25, and 27 above." *Office Action*, page 10, lines 15-16. However, as discussed above, Lauffer does not teach or suggest all of the features of independent claims 1 and 25. Claims 2-5, 26 and 28 all depend directly or indirectly from one of independent claims 1 or 25 and are therefore believed to be allowable for at least the reasons noted above.

Regarding claim 24, the rejection is traversed because Lauffer fails to teach or suggest:

- starting a communication session by receiving a question as an short messaging service message from one of the customers;
- extracting keywords from the question;
- matching the keywords from the question and the keywords provided by the experts to generate a list of one or more experts to receive the question;
- sending the question as another short messaging service message to the experts on the list of experts;
- receiving responses from experts on the list of experts wanting to answer the question;
- informing the customer sending the question of the experts wanting to answer the question;
- establishing a connection between the customer sending the question and an expert selected by the customer from the experts wanting to answer the question, the connection comprising a telephone call to the selected expert bridged to a telephone call to the customer; and

As discussed above, Lauffer uses keywords to match a consumer with an expert and thereafter allows the consumer to submit a question to the chosen expert. In contrast, claim 24 recites, *inter alia*, " starting a communication session by receiving a question as an short messaging service message from one of the customers; extracting keywords from the question" and "matching the keywords from the question and the keywords provided by the experts to generate a list of one or more experts to receive the question". Accordingly, the Applicants respectfully submit that Lauffer cannot properly be relied upon for teaching or suggesting the

above-recited features. Accordingly, the Applicants respectfully request withdrawal of the 103 rejection.

Additionally, the Office Action states on pages 10-11 and 12-14, respectively:

Lauffer does not expressly teach that the customers and experts communicate with the server using short messaging service messages (claim 2), wireless phones (claim 3), Voice over Internet Protocol (VoIP) (claim 4), or IP multicasting (claim 5). However, Official Notice is taken that each of these modes of communication was individually old and well-known in the art at the time of Applicant's invention. Different people have preferences for different types of communication media; therefore, an increased availability of multiple communication media would also increase the number of people with whom communications may be established. Consequently, since Lauffer specifically states that communications between customers and experts "can include any method of technology used to bring together the customer with one or more experts, including but not limited to...", the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Lauffer to allow the customers and experts to communicate with the server using short messaging service messages (claim 2), wireless phones (claim 3), Voice over Internet Protocol (VoIP) (claim 4), or IP multicasting (claim 5) in order to accommodate a greater number of communication media, thereby attracting a wider body of potential customers and experts (which in turn would potentially generate greater profit opportunities for the implementation of Lauffer's invention).

Regarding claims 24, 26, and 28, Lauffer does not expressly teach starting a communication session by receiving a question as a short messaging service message from one of the customers and sending the question as another short messaging service message to the experts on the list of experts (claim 24), wherein the question is submitted by short messaging service (claim 26), and wherein the expert responds to the question with a short messaging service message accepting responsibility for answering the question (claim 28). However, Lauffer discloses that communications between customers and experts "can include any method of technology used to bring together the consumer with one or more experts, including but not limited to telephone, Internet telephony, email, audio, and/or video. More preferably, the connection involves telephone, Internet telephony, audio, and/or video, and even more preferably Internet telephony, audio and/or video, and even more preferably video. The technology to be used for any of the above includes TVs, TVs with set-top web browsers, PCs, telephones, and satellite connections." (Col. 9, lines 5-14) Furthermore, Official Notice is taken that the use of short messaging service messages to conduct communications was old and well-known in the art at the time of Applicant's invention.

Different people have preferences for different types of communication media; therefore, an increased availability of multiple communication media would also increase the number of people with whom communications may be established. Consequently, since Lauffer specifically states that combinations between customers and experts "can include any method of technology used to bring together the consumer with one or more experts, including but not limited to...", the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Lauffer to start a communication session by receiving a question as a short messaging service message from one of the customers and send the question as another short messaging service message to the experts on the list of experts (claim 24), wherein the question is submitted by short messaging service (claim 26), and wherein the expert responds to the question with a short messaging service message accepting responsibility for answering the question (claim 28) in order to accommodate a greater number of communication media, thereby attracting wider body of potential customers and experts (which in turn would potentially generate greater profit opportunities for the implementation of Lauffer's invention). Additionally, the use of short messaging service messages to communicate among users provides the convenience of instant messaging capabilities in a wireless environment.

The Applicants respectfully traverse the Examiner's statements and demand the Examiner produce authority for the statements. The Applicants specifically point out the following errors in the Examiner's actions.

First, the Examiner uses common knowledge as the principal evidence for the rejections. As explained in the M.P.E.P. § 2144.03(E):

any facts so noticed should ... serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Second, the noticed facts are not considered to be common knowledge or well-known in the art. In this case, the limitations are not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, these limitations are unique to the present invention. See M.P.E.P. § 2144.03(A) ("the notice of facts beyond the record which may be taken by the Examiner must be capable of such instant and unquestionable demonstration as to defy dispute").

Third, there is no evidence supporting the Examiner's assertions. See M.P.E.P. § 2144.03(B) ("there must be some form of evidence in the record to support an assertion of common knowledge").

Fourth, it appears that the Examiner also bases the rejections, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such assertions with an affidavit when called for by the Applicant. Thus, Applicant calls upon the Examiner to support such assertion with an affidavit.

CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art for at least the foregoing reasons. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: Jan 16, 2007

By: 
Christopher P. Mitchell
Registration No. 54,946

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501